

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ABDUL J. SANDERS,

Defendant-Appellant.

UNPUBLISHED

November 13, 2003

No. 242181

Wayne Circuit Court

LC No. 01-004689-01

Before: Schuette, P.J., and Cavanagh and White, JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of armed robbery, MCL 750.529, and felony-firearm, MCL 750.227b. Defendant appeals as of right claiming that the trial court failed to make sufficient factual findings to support his conviction. We affirm.

I. FACTS

At trial, Darrell Copeland testified that defendant robbed him on February 28, 2001 as he and a woman were sitting in Copeland's car talking. On cross-examination, defendant sought to impeach Copeland's credibility regarding several aspects of his testimony, especially the date of the robbery. During cross-examination, Copeland admitted he had originally told police officers the robbery happened on March 5, 2001, later stated the robbery may have occurred on March 3, 2001, and eventually stated at the preliminary examination that the robbery occurred on February 28, 2001. Defendant then testified that he did not rob Copeland and that he had been in police custody from March 4 through March 9, 2001. During closing arguments, the prosecution stated that Copeland's testimony was clear that defendant was the person who had robbed him and that the robbery occurred on February 28, 2001. In his rebuttal, defendant argued that Copeland was actually robbed on March 5, 2001 and asserted that Copeland had probably received a description of defendant while trying to discover who had robbed him, seen defendant on the street after the robbery, and become convinced defendant was the person who had robbed him on March 5, 2001. According to defendant, Copeland had probably later found out defendant was incarcerated on March 5, 2001, changed the date of the robbery to March 3, 2001, and then later changed the date to February 28, 2001 at the preliminary examination. Thus, defendant urged the court to find him not guilty on the grounds that Copeland's testimony as to the date of the robbery was not credible, and that the prosecution had not proven the element of identity.

In making its decision, the trial court stated that Copeland had given very detailed testimony regarding how the robbery had occurred, despite being somewhat confused as to the date. However, the court found that Copeland had fixed the date at February 28, 2001 and had provided an explanation for the confusion. The court stated that the case boiled down to a question of credibility, as Copeland testified defendant was the robber, which defendant denied. Thereafter, the court stated it was satisfied based on Copeland's testimony that the robbery happened on February 28, 2001 and that defendant was the robber.

II. STANDARD OF REVIEW

The basis of defendant's challenge is that there was insufficient evidence to support the trial court's finding with respect to identity. Our Supreme Court has stated that identity is always an element of a criminal prosecution. *People v Oliphant*, 399 Mich 472, 489; 250 NW2d 443 (1976).

A claim that evidence was insufficient to support a conviction raises an issue of law that must be reviewed de novo by this Court. *People v Mayhew*, 236 Mich App 112, 124; 600 NW2d 370 (1999). "When determining whether sufficient evidence has been presented to sustain a conviction, a court must view the evidence in a light most favorable to the prosecution and determine whether any rational trier of fact could have found that the essential elements of the crime were proven beyond a reasonable doubt." *People v Wolfe*, 440 Mich 508, 515; 489 NW2d 748 (1992), amended on other grounds 441 Mich 1201; 489 NW2d 748 (1992). This standard also applies to bench trials. *People v Legg*, 197 Mich App 131, 132; 494 NW2d 797 (1992). Circumstantial evidence and reasonable inferences therefrom may constitute sufficient evidence to find all the elements of an offense beyond a reasonable doubt. *People v Nowack*, 462 Mich 392, 400; 614 NW2d 78 (2000). Moreover, a trial court's findings of fact in a bench trial are reviewed for clear error, giving regard "to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it." MCR 2.613(C). A finding of fact is clearly erroneous if, after review of the entire record, this Court is left with a definite and firm conviction that a mistake has been made. *People v Hermiz*, 235 Mich App 248, 255; 597 NW2d 218 (1999), aff'd 462 Mich 71; 611 NW2d 783 (2000). This Court must resolve all evidentiary conflicts in favor of the prosecution. *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

III. ANALYSIS

Defendant first asserts this case should be remanded for further findings of fact, alleging that it is not apparent from the record that the trial court was aware of the factual issues or correctly applied the law. Specifically, defendant asserts that the trial court incorrectly applied the law because it acknowledged the case hinged on a credibility contest between Copeland and defendant, specifically with regard to whether defendant was the robber because of Copeland's confusion as to the date of the offense, but failed to make specific findings as to why the trial court found Copeland more credible than defendant, or regarding defendant's testimony and argument challenging the identification.

In actions without a jury, such as in a waiver trial, the trial court must find the facts specially and state separately its conclusions of law. MCR 2.517(A)(1), MCR 6.403. Moreover, the "court must state its findings and conclusions on the record or in a written opinion made a

part of the record.” MCR 6.403; see also MCR 2.517(A)(3). With regard to factual findings, this Court stated in *Legg, supra*, 134-135:

Factual findings are sufficient as long as it appears that the trial court was aware of the issues in the case and correctly applied the law. *People v Armstrong*, 175 Mich App 181, 185; 437 NW2d 343 (1989). The court need not make specific findings of fact regarding each element of the crime. *People v Wardlaw*, 190 Mich App 318, 320-321; 475 NW2d 387 (1991); *People v Vaughn*, 186 Mich App 376, 384; 465 NW2d 365 (1990). A court's failure to find the facts does not require remand where it is manifest that the court was aware of the factual issue, that it resolved the issue, and that further explication would not facilitate appellate review. *People v Jackson*, 390 Mich 621, 627, n 3; 212 NW2d 918 (1973).

Defendant's contention is without merit. First, we note that in making its ruling the trial court stated that based on Copeland's testimony it was satisfied the robbery occurred on February 28, 2001 and that defendant was the robber. Therefore, “[t]he trial court was aware of defendant's defense of [identity], and chose to disbelieve and disregard it.” *Legg, supra*, 135.

With respect to defendant's contention that the trial court erred by not stating specific findings for believing Copeland over defendant, we note that our Supreme Court has stated that “[a]n appellate court will defer to the trial court's resolution of factual issues, especially where it involves the credibility of witnesses.” *People v Cartwright*, 454 Mich 550, 555; 563 NW2d 208 (1997). Moreover, in *People v Jackson*, 178 Mich App 62, 65; 443 NW2d 423 (1989), citing *People v Daniels*, 172 Mich App 374, 378; 431 NW2d 846 (1988), this Court stated that “[t]he credibility of the victim's testimony, as compared to the testimony of defendant, was a matter for the trier of fact to decide. We will not resolve it anew.” Therefore, the court's failure to specifically state its reasons for finding Copeland more credible than defendant does not require remand, because it is apparent “that the court was aware of the factual issue, that it resolved the issue, and that further explication would not facilitate appellate review.” *Legg, supra*, 134-135.

Defendant also contends the evidence was insufficient to sustain the trial court's finding that defendant was the robber. We disagree. First, as the trial court noted in its decision, Copeland gave a very detailed explanation of how the robbery occurred. Copeland also testified at trial that he got a good look at defendant during the robbery, had no problems picking defendant out of a lineup, and that there was no doubt in his mind that defendant was the robber. Moreover, as the trial court noted, although Copeland admitted he was initially somewhat confused about the date of the robbery, he was able fix the date at February 28, 2001 at the preliminary examination, and provided testimony to support his correction of the date by stating that he remembered taking his stepfather to cash a check on that date. Furthermore, as the trial court noted, a police officer testified that he arrested defendant while defendant was picking up his red 1983 Oldsmobile, and Copeland testified defendant was in a red car during the robbery. Finally, the trial court noted that another officer testified that Copeland immediately identified defendant at the lineup.

Thus, viewing the evidence in a light most favorable to the prosecution, we believe the evidence presented at trial, and all reasonable inferences arising from it, was sufficient for a rational trier of fact to find the element of identity was proven beyond a reasonable doubt, and that the trial court did not clearly err in so finding.

Affirmed.

/s/ Bill Schuette

/s/ Mark J. Cavanagh

/s/ Helene N. White